

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

Vivien Gant,

Plaintiff,

VS.

Tad Marshburn

and

Kathy Marshburn,

Defendants.

§
§
§
§
§
§
§
§
§
§


CIVIL ACTION NO. H-04-4595

MEMORANDUM AND ORDER

Pending before the Court is Defendants' motion for summary judgment. Because the evidence demonstrates that Defendants never employed Plaintiff and, therefore, cannot be liable to her under the Fair Labor Standards Act, the Court finds that Defendants' motion, Docket No. 17, should be and hereby is **GRANTED** and that Plaintiff's claim should be and hereby is **DISMISSED WITH PREJUDICE**. The Court further finds that an award of attorney's fees is appropriate. The parties are therefore **ORDERED** to attempt to reach agreement regarding the amount of Defendants' attorney's fees to be paid by Plaintiff's attorney. In the event that the parties are unable to agree, the Court will hear oral argument on the issue of fees.

IT IS SO ORDERED.

SIGNED at Houston, Texas, on this the 21st day of December, 2005.

A handwritten signature in dark ink, appearing to read "Keith P. Ellison", is written over a horizontal line.

KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE

**TO INSURE PROPER NOTICE, EACH PARTY WHO RECEIVES
THIS ORDER SHALL FORWARD A COPY OF IT TO EVERY
OTHER PARTY AND AFFECTED NON-PARTY EVEN THOUGH
THEY MAY HAVE BEEN SENT ONE BY THE COURT.**